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A Minor Chord.

PAUL J. RAGAN (LAW) '99.

NO, child, the sea bird never sings;
Such minor chords 'twould take to tell
The burden of his mournful tale,
Such music weird as never fell
Upon the ear of man.

Ask not
To know; his tragic song would pierce
Thy tender heart like blades of steel.
Thy youthful breast would heave with pain,
And dazed with grief thy brain would reel.

The dying shrieks—Despair's last hold,—
The orphan's moan, the widow's sigh,
Half smothered groans of withered hopes
And blasted loves that never die,—
Thou couldst not hear such song as this.

Deep hidden in the dark-gloomed sea
Are mysteries too black to know;
Grim death dwells here, and stalks about
O'er ghastly bones washed white as snow.

The troubled spirits—so 'tis said—
Of sailors lost at angry sea,
Are wandering here with gloom and hate,
Wild souls oppressed with misery.

Foul crimes and wrongs a hundredfold
Are covered in the ocean's breast,
And hence the sea in sorrow rolls
Forever sad, no peace,—no rest.

Habeas Corpus.

FRANCIS J. F. CONFER, LL. B.

FROM the earliest history of English common law, if a man were imprisoned, no matter by what authority, he had a right to the writ of habeas corpus to bring his case before the king's bench. If no specific offense were charged against him in the warrant of commitment, he was entitled to be forthwith discharged; and if an offense were charged that was bailable in its character, the court was bound to set him at liberty on bail. The writ is of immemorial antiquity. It is of earlier date than the charter of King John, and may be referred without improbability to the period of the Roman invasion. During the long struggle in England between arbitrary government and free institutions, the right of the subject to the benefit of habeas corpus was one of the great points in controversy, and the occasion of many exciting contests between the crown and the people. These struggles continued until the passage of of the statute of 31 Charles II., commonly known as the great habeas corpus act, and by some writers denominated a second Magna Charta. But, though a very beneficial enactment, and eminently remedial in many cases of illegal imprisonment, the habeas corpus act introduced no new principle, nor conferred any new right upon the subject. Its great and inestimable value is that it contains provisions that compel courts and judges and all parties concerned to perform their duties promptly, in the manner prescribed in the statute. In the United States, the writ of habeas corpus is expressly recognized in Art. 1, Sec. 9, of the Federal constitution, which says: "The privilege of the Writ of Habeas Corpus shall not be

suspended unless when, in Cases of Rebellion or invasion, the public safety may demand it." The habeas corpus act has been in substance incorporated into the jurisprudence of every state in the Union, and the right to it has been secured in most, if not all, of the state constitutions by a provision similar to that in the Federal constitution.

The writ of habeas corpus may be issued by the court in term time or by a judge during vacation. A justice of the United States supreme court can issue the writ anywhere in the United States; a judge of the circuit or district courts, anywhere within his jurisdiction. In the States the same principle obtains. Application for the writ should therefore be made to the court or judge nearest the applicant, unless good excuse exists why the application can not be so made. A judicial officer of a state can not, however, by habeas corpus, take and discharge a person held under color of authority of the United States. Neither have the Federal courts power to issue the writ in the case of a prisoner in jail under state authority. But the Federal courts have jurisdiction to discharge a person imprisoned by virtue of a state law whose operation violates the fourteenth amendment of the Constitution; and they may inquire into the commitment of an alien prisoner under state authority for a state offense, where it is alleged that the statute creating such offense is unconstitutional or in violation of treaty. Furthermore, the habeas corpus act of 1833 gives relief to one in state custody, not only when he is held under a law of the state that seeks expressly to punish him for a law or process of the United States, but also when he is in such custody under a general law of the state that applies to all persons equally, where it appears that he is justified for the act done, because it was done in pursuance of a law of the United States, or of a process of a court or judge of the same. When, therefore, an officer in attempting to make an arrest on lawful process is resisted, and is obliged to take life, as in self-defense, he is justified; and if the act is committed in an attempt to execute the process of a United States court, and the officer is arrested and held in custody under state process, the Federal courts will discharge him.

The sole object of the writ of habeas corpus is the liberation of those who may be imprisoned without sufficient cause. The only questions that can be examined under it are whether the court had jurisdiction over the case, and whether the sentence rendered was within its power; it therefore takes the form of a writ of error to examine the legality of the commitment. A party is not entitled to the benefit of the writ unless he is actually restrained of his liberty. Hence one who has been admitted to bail is not a subject of the writ. At common law it was issued whenever a citizen was denied the exercise of his personal liberty, or was deprived of his rightful control over any member of his household—his wife, child, ward or servant. The statutory provisions on this subject are nearly the same in all of the states. All persons restrained of their liberty are entitled to prosecute the writ unless they be detained by process from any court or judge having exclusive jurisdiction in the case, or unless detained by final judgment or decree, or execution thereon of any competent civil or criminal tribunal, other than in the case of a commitment for contempt. A person who is unlawfully restrained of his liberty may apply for the writ to secure his own release; or if he is unable to do so, or is not permitted to make the application, a relative or friend may make the application for him. Thus a writ may be sued out by a parent, guardian, son, daughter, brother, or even an uncle, but not by a mere stranger. In such case, however, there must be a showing to the satisfaction of the court that the person himself is unable to make the application. A writ may issue at any period of an imprisonment that is wrongful.

A petition for habeas corpus must either be verified or accompanied by an affidavit, and it must allege facts that tend to show an illegal imprisonment and probable cause for granting a release from custody. Accordingly, if the ground of the petition be that the prisoner has been committed without reasonable or probable cause, the petition must set out what the evidence on the examination was, and in such form that perjury may be assigned upon the allegations, if they are shown to be false.

If the writ be issued by a federal judge it runs in the name of the President of the United States; if issued by a state judge, it runs in the name of the state. It must in every case be signed by the judge or officer authorizing it. It is addressed to the person detaining him in whose behalf it issues, and commands the detaining party to have the body of the prisoner before the court or judge at a time and place therein mentioned, and to show the cause of detention. In some states it is the practice to grant a rule *nisi* for the prosecut-

ing officer to show cause why the writ should not issue; in others, where the writ is issued, notice of the same must be given to the prosecuting officer.

The writ must be duly served upon the person to whom it is directed, who is thereupon bound to make a return in writing to the issuing officer. Service can be made either by an officer or by a private person. At common law it was not necessary that the return should be verified, but this has now been generally changed by statute. The return must contain a denial or matter in justification and excuse; that is, it must deny altogether the detention of the party alleged to be detained, or show the reason for his imprisonment. The body of the person detained must be produced in court at the time and place specified in the writ; or cause must be shown why it is not, such as a denial of the detention. If the relator deem the facts in the return to be incorrectly stated, he is privileged to attack it, and the court may then allow it to be amended. If the return pleads matter of justification, then the whole question of the validity of the commitment and process is thrown open, and the real function of the writ made apparent; for if no cause for imprisonment of the relator appears he will be discharged. If the court refuse to discharge the relator under one writ, or if new facts of evidence have arisen, the relator may make another application to a different court, and provided there is no statute to the contrary, a second writ may be granted. At common law no appeal or writ of error was allowed from a decision or application for a writ. By statute, however, such appeals are now allowed in the federal courts and in many of the states.

The Plains in Winter.

AS far as where the horizon line has sped,
Where, yonder, sky and earth appear to meet,
On all the prairie-land that from my feet
Extends, no signs of life—all still, all dead.
Here stretch the fields, beneath a snowy shroud,
That yielded up their fruits, then sank to rest,
When last the farmer gathered from their breast
The ripe rewards they promised when he plowed.
They presage not of summer's fruitful hours,
While they lie still beneath the winter's blast,
Yet in their bosom lurk life-giving powers
That will awake, the wintry storms flown past.
Then on these fields the harvest-workers meet,
And His command to toil in sweat seems sweet.

S. J. O'S.

The Province of Chancery.

JUSTICE is the constant disposition to render to every man his due. And this motto should guide the legislator in framing new laws. A strict interpretation of every rule of human action, however, would often lead to unjust conclusions. It is the province of chancery to modify the rigors of the common law. The institution of this department of our legal system was almost contemporaneous with the reign of the first Norman kings. One of the first prerogatives of the crown was the power to settle disputes between subjects. The king under certain circumstances, not only decided causes without reference to the common law courts, but he also entertained appeals from the decisions of these tribunals, and occasionally assumed jurisdiction over causes pending in such courts.

As time advanced the duties of the king multiplied, litigation increased, and foreign relations claimed more and more of his attention, until he found it necessary to delegate his judicial powers to his council. The most important member of this body was the chancellor who presided and directed its business. This fact gave rise to the chancellor's equitable jurisdiction, and he soon was recognized as the supreme arbiter of the realm, in matters of litigation, and possessed of great political power.

As the learning of the Middle Ages was confined largely to the clergy, it was natural that the office of chancellor should be filled by a prominent ecclesiastic. The court of chancery was called upon to decide only in those affairs for which there was no adequate remedy at common law. Thus we find the origin of the spiritual nature of the chancellor's decrees—excommunication and *excommunicato capiendo*. By the former punishment the party was excluded from all religious ceremonies; and should he then prove contumacious, he was, by the latter edict, imprisoned until he professed obedience.

The chancellor's jurisdiction remained for several centuries unbound by definite rules. To the middle of the sixteenth century, as Blackstone says, their decrees were "rather in the nature of awards formed on the sudden *pro re nata*, with more probity of intention than knowledge of the subject, founded on no settled

principles, as being never designed, and therefore never used, for precedents." From the above-named period, the rules of chancery jurisdiction and procedure began to be formulated into definite principles and regulations, and, as regards these doctrines, chancery has no more latitude than courts of common law.

In modern times in America, courts of law in certain states have an equity side, which applies those remedies that had their origin in the chancellor's early decrees, and in code states the two systems are blended into one. The persons of the court are known by a distinct nomenclature. The judge is designated as the chancellor, the attorneys as solicitors, the plaintiff as the complainant, and the defendant as the respondent. The jurisdiction is limited to the protection of civil rights, and the court sits without a jury. No jurisdiction can be exercised over crimes by a court of equity, unless provided for expressly by statute. But when a court of equity once assumes jurisdiction over an action for invasion of private property, its jurisdiction is not divested should such invasion be also a matter to be settled by damages.

It is a well-settled principle that equity can have no jurisdiction where full relief can be had at law; not only because it is a court of conscience and superior to legal remedies, but also by reason of the defendant's constitutional right to a trial by jury. This was not a principle, perhaps, of the English chancery practice, but it is well established since equity jurisprudence has been given defined limits. To exclude equitable interference, however, the remedy at law must be adequate in its manner of affording relief. Thus the courts of law and the courts of equity have each a separate and distinct jurisdiction; the former administering the common law and statutory remedies; the latter a tribunal of conscience, untrammeled by inflexible precedents, and whose ideal is equality.

By thirteen admirable maxims — seven enabling and six restrictive — equity is well equipped to give justice where courts of law have failed. The most potent of these maxims is the first one: "Equity will not suffer a right to be without a remedy." In this is expressed the true purpose of its powers; and it puts them into practice by its several remedies of estoppel, specific performance, injuction, etc.

We shall use the words chancery and equity as synonymous terms throughout this article. At present the equitable remedy of injunction is the one most sought. It can be invoked to restrain the breach of a negative contract, where such breach will result in irreparable injury, not capable of being adequately compensated in damages. It is usually considered a remedy co-extensive with that of specific performance; but it is not altogether confined to such cases, and will be exercised in every instance to bind men's consciences to an exact performance of their promises. An injunction, however, will not be granted where adequate relief can be had by damages in a suit at law. The cases where damages would not be a sufficient remedy for the breach of a negative contract are numerous.

In the doctrine of estoppel, fraud is summarily dealt with by concluding him who, by his language or conduct, leads another to do what he would not otherwise have done, thereby altering his previous position for the worse, from disappointing the expectations on which the former acted.

The most popular of the equitable remedies is that relating to real estate mortgages. At law the mortgagee was considered the legal owner of the property, if the condition of the conveyance was broken; but equity views a mortgage as a lien or charge on land to secure the payment of a debt. By the equity of redemption the mortgagor has the right to pay the mortgage debt after default, and thus regain possession of the premises. The manner of proceeding is simply a suit in equity by the mortgagor, when he tenders to the mortgagee the amount due on the mortgage debt. The court then issues a decree compelling the mortgagee to reconvey the estate.

In the equity of redemption the court acts upon the maxim: "Equity regards substance rather than form," and the object in mortgages is the security of the debt; therefore, if the debt is paid with interest on the amount, the real purpose of the transaction is attained, and the mortgagee must relinquish his claim on the property. The same rule applies to conditional sales of land. The court will construe such transactions as mortgages in case the conveyance was intended by the parties as a security for debt. Thus in all transactions equity looks at the real intention of the parties and disregards mere form.

Equity will relieve against the statute of frauds by enforcing an unwritten contract in three classes of cases: (a) Where there has been some part performance of the contract by plaintiff. (b) Where fraud has been used to prevent the contract from being reduced to writing. (c) Where the plaintiff fails to plead

the statute as a defense. The statute of frauds, although a wise measure, is often a cloak for the very fraud it seeks to prevent.

The very just view of the statute of frauds by courts of equity is:—"The statute of frauds was passed to prevent fraud, and never could have been intended by the legislature as an instrument of fraud; and therefore a man who has procured some benefit from another on the faith of an oral promise will not be permitted to turn around and fail to perform that promise, on the ground that the formalities required by the statute have not been observed. In such cases the defendant is really charged upon the equities resulting from the acts done in execution of the contract, and not upon the contract itself."

Another most admirable maxim of chancery is that "Equity looks on that as done which ought to be done." Applying this principle, equity will presume a trust in a case where one party transfers his property to another with the condition that the latter shall support him for the balance of his life. Here equity makes the transferror the rightful owner of the property, and the transferree only a trustee until performance of condition. Thus, also, it considers transfers of property with condition that the transferror's children shall receive maintenance and education from the transferree.

The equitable remedy of specific performance for breach of contract gives adequate relief where common-law courts have failed, because their only compensation to the disappointed party is damages. The question to be determined here is whether damages do, or do not, give adequate relief. If damages are a sufficient remedy, then equity can have no jurisdiction. If, however, the subject-matter is something unique and incapable of being duplicated in the market, then equity will decree specific performance by compelling execution of the contract in accordance with the original intention of the parties.

The equitable doctrines of interpleader, of receivers, of injunction, of partition, of subrogation, of satisfaction of ademption, of exoneration of contribution, of marshalling assets, of discovery, and the maxims, "He who comes into equity must come with clean hands," and "He who seeks equity must do equity," make chancery the protectress of the infant, the aged and infirm; the palladium of the principles of eternal justice, and the active and irresistible foe of oppression and inequality.

LEGUM DISCIPULUS

The First Rush.

FRANCIS P. DREHER (LAW) '98.

JACK WALTON and Harry Montaigne were regarded in the circle in which they moved as model young men. They had been close friends at college, sharing each other's triumphs and disappointments; and this feeling became even more marked after they had left school. Of course, they had their whims and fancies just as we all have, but these were never a source of discord between them. In their rambles at college they had conceived high ideals as to their future in the busy marts of the great world outside. They chose the profession of the law as the proper field for a useful life. The day for graduation came and went. They were now in the world of practical affairs. The first question was: "What are we to do?"

"To form a partnership," said Jack, "between you and me is about the only way to start."

Harry hesitated a moment, and then said: "Oh yes! let's see. In Burnham *vs.* Beaubien, 41 Mich. 144, there is a case to the effect that attorneys may enter into partnership and share profits and losses. This is essential to the relation."

"'Losses' is good, and 'profits,' why that's great. But all right, I'm with you."

Thereupon they took the necessary legal steps to unite their fortunes in the matter-of-fact form of articles of co-partnership. Shortly afterward they opened an office on the top floor of one of the sky-scraping office buildings in Detroit, furnished it in the regulation manner, employed a stenographer, and had the telephone put in. After they had thus been located for about three months without having had occasion to brush from their door-mats the dust of clients' shoes, Harry began to show dissatisfaction. In fact, he would not have objected to a retainer requiring him to appear in one of the old-time pie-poudre courts.

"Jack," said he one morning, "I found a case last night, Trueblood *vs.* Youngblood, 73 Pa. St. 989, in which it is held that the chief object of every partnership is to bring profit to its members, and unless it does so it may be dissolved."

"Come, Harry, we can't expect to secure a rushing business at once. We must have patience and a little of the old 'gridiron' grit."

"Here, old man," said Harry, "don't philosophize so much. It grates on my ears to hear you talk about what we are *going* to do. It's all a waste of time."

"That's right, too, Harry. You remember the rule of our football onsets, 'Make an opening, and then plunge through.' That's what I did this morning. Business is coming. We have a case on hand—Banks *vs.* the Pan Handle RR. Co."

"How's that?"

"Why, when I came down this morning, a man was pushed off the car. I made an opening in the crowd and plunged through. I took the injured man's name, and I am going to see him at the hospital tomorrow. He told me he is going to sue for $10,000."

"Good!" And then Harry added ruefully, "but that's all thin air yet."

"Yes," said Jack, as he leaned back in his chair, puffing vigorously at his straight-cut *donatio causa mortis*. "'The law is a jealous mistress.'"

"I don't see the connection," retorted Harry, who was now leisurely paging a book on Domestic Relations. "We have had three months of judicial experience, and it has not brought any luxury nor even rent and car-fare to our office."

"Grant you that, grant you that; but don't you see business is coming. Mr. Paliere,—you know Mr. Paliere, the Italian Count,—called on me last evening to offer me a retainer in his divorce case. You would better turn your attention to the Utah and Dakota cases on the subject."

"Yes, Jack; but haven't you read enough in that line to know that these dukes and counts are impecunious adventurers who have smiles for the ladies, promises for lawyers, evasion for creditors, and no money for anybody?"

"Well," said Jack, "but see the prominence we get, the newspaper reports, and all that. I hear that Miss A., of Windsor, a charming *bleu blas* of uncertain age, but of great wealth, has caught the count's eye, and there is no telling what foolish things a fellow may do when thus fettered and blinded. I have an aversion to divorce business, as it is usually in the hands of shysters, but the count said he would give us a retainer of $200. This he must follow up with a reminder, refresher, etc., after we get into court."

"By the way," said Harry, "I read a case the other day. It's the case of Mottenzo *vs.* Laniers, 49 Mich. 987, which holds that a marriage in jest is void *ab initio*. There's the point we'll make. We'll proceed on that theory."

"Good! I tell you business is improving."

Just then the letter carrier came in and handed Mr. Walton six letters addressed to the firm. He hurried to look them over, and threw a couple to Montaigne to open.

Jack turned and interrupted Harry: "Why, here is another case! McKenzie wants to sue Dockstader—a claim growing out of a poker debt."

Mary, the stenographer, had just come in about this time, and Jack greeted her with unusual glee.

"Mary," he said, "here's trouble about a game of poker. It is in reference to a note for money loaned to one engaged in playing the game. I want to refer to Spade *vs.* Hart, 78 Me. 210. Kindly borrow the book from Lawton, whose office is across the hall. Then write a præcipe to the clerk of the circuit court, directing him to issue a summons, and say that I will call later, pay his fee and have the sherriff serve it on Dockstader."

"By the way," said Harry, "here's another note. Miss Alger is coming down to the office this morning. Let's see,—it is ten o'clock. She will be here in half an hour. Hurry up, Jack, and make things look suggestive of our doing a land office business."

Jack turned to the door and said: "Ah, here she is now!"

Mr. Montaigne stepped forward to greet and receive her.

"Good morning. Yes, I received your note. Kindly be seated. It is rather chilly out this morning."

Harry turned aside to Jack and continued: "Jack, be active, make things indicate a rush."

"Oh yes!" said Jack. "Mary, I thank you for that report. The case of Spade *vs.* Hart is on all fours with McKenzie *vs.* Dockstader. Have you finished the præcipe? If so, kindly write out a petition for an injunction in the General Electric Railway matter. Afterward copy this abstract of the record in White *vs.* Black, which involves a constitutional question and must go to the supreme court."

"Why, I have been copying that old thing for a month."

"Never mind, never mind," said Jack. We must have another copy. The firm of Speed and Bragg has been called into the case, and Bragg writes that he must have the abstract or a copy of it, and as we can not spare the original, we

must send him a copy of it. It may be necessary later to make out another copy for Gall and Cheek."

Harry turned inquiringly to Jack and said: "By the way, has Mark Hanna been in this morning? He wires me that he will be here from Cleveland on the nine o'clock train."

"No," said Jack. "And, by the way, have you informed the bank people that their case in the supreme court was decided in their favor? Please, attend to that at once."

Just then a messenger brought a telegram. "Mary, please sign that book."

This order given, Jack proceeded to read the telegram: "The injunction suit to restrain the colony of Sorinites from constructing an underground railroad to the Red Mill was dismissed for want of jurisdiction. It is a case involving the question simply of damages, and must be tried at common law. We must be careful in regard to the proper joinder of parties. Are you certain as to the identity of the defendants? As it involves a question of fact, we can insist upon a jury trial."

Miss Alger here remarked, "I am delighted to see such activity."

"Ehem, ehem, yes; but lawyers are busy men, you know."

"Well, I shall not detain you long, Mr. Montaigne."

"Oh! have no fear on that point," said Harry. "And now will you kindly state your case?"

"About two months ago, I gave a pink tea party. One of the young men present took a photograph of mine from the album. I value it highly. It was the only one of that kind I had. What I wish to know is whether I can get it back."

"Well," continued Harry as he assumed a courtly air, "did he take it openly?"

"I suppose."

"Wasn't there anyone present besides yourself when he took it?"

"No, sir."

"Now the point is, Miss Alger, you do not like the present *situs* of the photograph?"

"Beg pardon?"

"I say you don't care to have the picture remain where it is."

"That's it exactly."

Harry scratched his head and said: "That's a peculiar case. Now let me see. Trespass *vi et armis?* That won't do. *Quare clausum fregit?* No. Oh yes! replevin, trover, larceny or robbery."

"Oh! another thing; what is this young man's name?"

"Well—well, I really don't like to tell that."

"But I assure you, Miss Alger, it is absolutely necessary that we should have his name. In Cornell *vs.* Blenerhassett, a late New York case, it was held that the parties to an action must be fully known and appear. He shall have to be served with a writ of summons if a civil action is brought, or a state warrant if he is to be prosecuted criminally. If we do not give the name correctly his lawyer may plead in abatement, and put us off for a time."

"Is it very dangerous to proceed in that way? I shouldn't like to hurt him, because—"

"No, no, it is the customary procedure in such cases."

"Well, if I must tell, his name is Allen Oldrogue!"

"Very well, Miss, Alger; we'll attend to that, good morning."

And as she was closing the door, she turned back and said: "I will have papa send you a check for your trouble."

"Oh! that's all right, decidedly all right," Harry added, snapping his fingers after the door had closed.

"Here's another letter," said Jack, "asking us to sue a corporation."

"Mary, take down this letter to Judge Weadock: 'We find that educational institutions can not, under their charters, maintain a ferry. It is *ultra vires*. The point has been clearly settled in Bradly *vs.* Martin, 97 N. Y. 400.'"

"Well, Harry, it's twelve o'clock; let's close up."

"Yes," replied Harry, "and I think on the strength of this 'first rush' we may go out for a lunch."

Forthwith they proceeded arm in arm to celebrate the occasion with Niles mineral water, and toast the successes yet to come.

Moods.

OFT on a bright and sunny day
For me the skies are sad and gray;
Many a cheerful summer night,
No sparkling star will greet my sight.

Oft on a dreary winter day
To me the sun shines bright and gay;
Many a cold and cheerless night,
My soul is warmed with gladsome light.

M. A. H.

What Constitutes a Nuisance.

JOHN W. EGGEMAN (LAW) '99.

IN the ordinary sense in which the word is used, a nuisance is anything that produces annoyance or is offensive; but in legal phraseology it is applied to that class of wrongs that arise from the unreasonable, unwarranted or unlawful use by a person, of his property, real or personal, or from his improper, indecent or unlawful conduct, working an obstruction of or injury to a right of another or of the public, and producing such annoyance or hurt that the law presumes consequent damage. It may be stated as a general proposition that every act in the exercise of authority by a person, over his property, which violates the right of another in any essential degree, constitutes a nuisance, and is actionable at the instance of the injured party.

It is true that every person has and may exercise exclusive dominion over his own property, and has a right to enjoy it in all the ways and for all the purposes that such property is usually enjoyed; and yet his use of it must be reasonable, and not violative of the rights of others. It is a part of the great social compact that every person shall yield a portion of his absolute dominion over his property to the legal rights of others, so that these also may enjoy their property in peace and security.

Injury and damage are essential elements of a nuisance, but they may co-exist as the result of an act or thing, and yet the act or thing producing them not be a nuisance; because every person has a right to the enjoyment of his property; and so long as the use to which he devotes it violates no rights of another, however much damage others may sustain therefrom, his use is lawful. In La-Salo-v-Holbrook, 4 Paige's Ch. (New York) 169, the plaintiffs had erected a large and costly church upon a lot in New York City adjoining the defendant's, and the defendant, to lay the foundation walls of a new building he was about to erect, began to excavate to the depth of several feet below the walls of the church, which endangered the safety of the church. On hearing, the court dissolved the injunction, on the ground that the defendant had a right to make the excavation and the plaintiff had no redress.

The question, what is a reasonable use of one's property, must necessarily depend upon the circumstances of each case; inasmuch as a use for a particular purpose may in one locality be lawful and reasonable and in another unlawful and a nuisance. For example: In a New York suit, instituted to restrain the continuance of a slaughter-house in a certain locality, Judge Paige, in delivering the opinion of the court, said: "When the slaughter-house was erected, it incommoded no one; but now it interferes with the enjoyment of life and property, and tends to deprive the plaintiffs of the use and benefit of their dwellings. As the city extends such nuisances should be removed to the vacant ground beyond the immediate neighborhood of the residences of the citizens. This public policy, as well as the health and comfort of the population of the city, demands."

In order to create a nuisance from a use of property, the use must be such as to work a substantial injury to the person or property of another, or to render the enjoyment of the same essentially uncomfortable. It is not enough that it diminishes the value of surrounding property; it must be such use as produces a tangible or appreciable injury to the property, or as renders its enjoyment essentially uncomfortable or inconvenient.

Not only must a right be violated; but in order to constitute a nuisance, the violation of the right must work material inconvenience, annoyance, discomfort, injury and damage. It is not necessary that all these elements should concur as the results of an act in order to constitute a nuisance; but it is essential that some one of those results should ensue, and that the act or thing producing the same should be in violation of the rights of another or of the public.

Injury and damage must concur as results of an act or thing in order to make it a nuisance; but where there is a material injury involving an invasion of right, damage is implied. Nuisances arising from the use to which property is devoted, either by the owner or one who is lawfully in possession, are declared so by the courts with extreme caution. It is merely a question of right. The motives of the parties have no connection with the inquiry, or bearing upon the result.

An act, however malicious, however wrongful in its intent, or however serious in its consequences, may be within the scope of the party's right, and not amount to a nuisance; while on the other hand, a party who devotes his premises to a use that is strictly lawful in itself, that is

fruitful of great benefit to the community, that adds materially to its wealth, and enhances its commercial importance and prosperity, and whose motives are good and intentions laudable, even, may find that by reason of the violation of the rights of those in the vicinity of his works—from results that are incident to his business and that can not be so far corrected as to prevent the injury complained of—his works are declared a nuisance. Therefore, it is proper and highly important that courts should proceed with extreme caution, and never declare a business a nuisance, except there be such essential injury and damage that the act or thing can not be justly tolerated without doing great violence to the rights of individuals and the public.

Nuisances also arise from a violation of the common law, and not from the violation of public statutes. Where a statute creates rights and imposes certain penalties for their violation, the violation of the right so created is not a nuisance, and redress can only be had in the manner provided by statute. The rule is that where the statute merely gives a new remedy, where one existed before, it is merely cumulative, and either may be pursued; but where the statute authorizes an injury and provides a remedy for it, no other can be pursued.

Nuisances arise from a misue of property, real or personal, or from a person's own improper conduct; but the idea of a nuisance, generally, is associated with, and more commonly arises from, the wrongful use of real property. It is only in special and infrequent cases that it arises otherwise. It is a species of invasion of another's property by agencies operating entirely outside of the property itself, and imperceptible and invisible except in the results produced.

Nuisances are either public or private. Public nuisances are such as result from the violation of public rights, and affect all alike. They may be said to have a common effect and produce a common damage. Private nuisances are injuries that result from the violation of individual rights, and produce damage to some particular person. In the case of a public nuisance no individual is permitted to maintain an action for damages, since it is a nuisance that affects nobody particularly, but everybody in common; hence it is punishable by indictment as a public nuisance. But annoyances to the interests of particular persons are left to be redressed by the private action of the party aggrieved.

Government and Civil Society.

STEPHEN J. BRUCKER, '98.

TO the man that has never asked himself the question, "How did nations originate?" there is a vast, unbridged chasm between the terms government and civil society. There seems to be no relation between these terms. To those, however, that have studied the causes and effects of historical events, there is a close affinity between government and civil society.

In reality, the line of demarcation between the terms government and civil society is very indefinite. We do not know where the latter ends, nor do we know where the former begins. When we speak of the one we unconsciously include the other, for they can not exist apart; nor can they exist among barbarous peoples that have not felt the beneficent influence of civilization. There is, however, among semi-barbarians, a crude form of society in which our own civil society originated. A compact made up of a number of persons united by mutual consent, to act jointly for some common purpose,—that is society. The theory that in union there is strength did not originate with *Webster when he delivered his masterly ora*tion on "The Union of the States." People have at all times banded themselves into society to avert a common danger.

Civil society is commonly known as a state, a nation, or a body politic, because it indicates a condition of society reduced to order and to a regular form of government. A state, in its widest sense, is an independent community; and government is the institution by which it makes and carries out those rules of action that are necessary to enable men to live in a social condition, or which are imposed upon the people of the state by those that have the authority to prescribe laws. Government is the aggregate of authorities that rule in a civil society. Administration is another term that is sometimes mistaken for government. Modern jurists define administration as the aggregate of those persons in whose hands power is placed for the time being.

The terms state, government and administration are frequently used interchangeably. In reality, however, there are marked differences among them. The government is the most prominent part, that which can be most readily

perceived. It is, therefore, very often misused for state. Publicists of the last century have almost always used the term government when, in reality, they meant a political society. During the earlier part of the Middle Ages, the kings called themselves rulers of peoples and not of nations. No matter how well a king's territory was defined, he was the ruler of the people living within those limits, rather than the king of the territory itself.

Government, like society, is an institution. It is never actually created by compact or by agreement. Even where portions of government are formed by agreement, as where a certain family is called to rule over a country, the contracting parties must previously be conscious of having authority to enter into an agreement of this nature.

As society has its beginning in the family, so has authority or government. Men are forced into society by the fundamental law that with them alone of all animals, the period of dependence of the young upon its parents is longer by many years than the period of lactation. During the period after lactation, time and opportunity are given to develop affection and the habit of obedience on the one hand, and affection and authority on the other.

The family is the unit of society. This unit is added to. It is enlarged and expanded by business and social intercourse. Families are united by marriage. Thus the unit of society is enlarged into clusters of families, and these again grow into societies. As this gradual change goes on in the development of government, the habit and necessity of authority is never lost sight of.

As men advance in civilization, the great and pervading law of mutual dependence shows itself more clearly and acts more forcibly. Man is eminently a social being. His instinctive love of aggregation proves this. It is necessary for him to secure property, real and personal—real property to build a habitation upon, and personal property to provide for those that are dependent upon him. As man is, above all, a social being, he must develop his mind to understand high ideals in education, and he must train his heart to respect and honor his superiors, and to raise his inferiors to the same standard of advancement he sets for himself.

Society and that power which controls and sways its destinies are continuous. A rule of action once adopted by government becomes a law. This law may be recognized as authority by many generations of men that neither made it nor had any direct representation in making it. The necessity of government is therefore continuous. The family is the institution from which society, authority and government arose. It increases in importance, distinctness and intensity of action as men advance in civilization. Love of country and obedience to law have their beginning in the family. Those that love their country and obey her laws are the men that have been disciplined in that smallest of absolute monarchies, the family, where the ruler holds immediate sway over all, even over his consort on the throne.

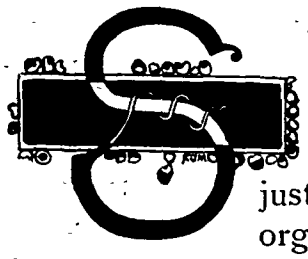
Besides being social, man is an individual and exchanging being. His personality is enduring. By his distinct existence he is distinguished from every other creature. In simple brute force, man is inferior to some of the lower animals, but by his power of reason he is able to use his strength to superior advantage. By his physical condition, he is compelled to appropriate and to produce; thus he creates property by imprinting his own individuality upon the material world around him. As an exchanging being, man carries on traffic with his fellowman; he barters with others. He trades his surplus stock for that of others which he has been unable to produce. Thus no man can say that he is independent. No nation is independent, in the true sense of the word, because one must depend upon another for material that it can not produce within its own territory.

This constant intercourse among men creates claims of protection, of rights, and the necessity of rules of law. These are furnished by government. As single persons and as members of society, men require government so that laws may be enacted to protect their rights. No society, no cluster of men, no individuals banded together even for a temporary purpose, can exist without government. It immediately springs up. It is characteristic of men. Whatever affects a number of persons affects their government. Many considerations affect men; expansion, accumulation, development and progress, the configuration of the country, geographical and chronological position, and therefore they affect their governments. Thus we have an endless variety.

Whatever form of government may present itself, the fundamental idea is always the protection of society, security of person and property, the administration of justice, and the united efforts of men to furnish to government the means to carry out its objects.

Oratory.

JEROME J. CROWLEY, JR., 1900.



ONG charms the sense, eloquence the soul." Thus does Milton, who sang our loftiest epic and who was justly styled the "God-gifted organ-voice of England," exalt the art of oratory, for oratory is an art as well as a gift. We see the masters of antiquity struggling against natural obstacles, cutting their way, inch by inch, up the ascent to the summit of fame. They were not lifted spontaneously to that eminence. We discover Demosthenes, the brightest jewel in the Grecian coronet, driven from the bema in disgrace, combating an impediment of speech and an ungainliness of gesture and manner. Not until after years of sacrifice, study and discipline did Cicero overcome his weakness of voice and lungs and his excessive vehemence. But these years of work told. There came a day when Cicero's eloquence burst forth in torrents; no longer to be held in check, but to sweep on through the ages, wherever men sigh for lost justice and anathematize the reign of slavery and demagogism.

But as we turn from these masters and pass from form to form down the gallery of time, stopping, it may be, before the imperial figures of Pitt of England, Mirabeau of France, O'Connell of Ireland, and Webster and Wendell Philips of America, we see that the element of oratory is an atmosphere of ferment; it abhors stagnation and luxurious repose.

Without a Philip, without a dying democracy, there would have been no Demosthenes. Had there been no Catiline, no Verus, no Anthony had not liberty been debased into license, and had faction not rent asunder the sacred ties of the family, a Cicero would have found no utterance. Above the raging flames of anarchy, that threatened the hope of universal liberty, Mirabeau towered with awful presence, and with voice pealing forth like the aroused ocean, he terrified a world. O'Connell with eloquence unsurpassed, and with majestic form and magnetic voice, sweet and powerful, arose phœnix-like from the ruins of a down-trodden people, oppressed not only by pestilence and famine, but by a nation professing Christianity and its accompaniments of culture and refinement.

In our own land Wendell Phillips and Daniel Webster, through troubled and tempestuous times, lost no opportunity to utter their clarion notes—the one in behalf of the slaves, the other in defence and support of the union and constitutional rights. The landing of the Pilgrims at Plymouth, the battle fought at Bunker Hill, became a vital part of our national inheritance, through Webster's "Thoughts that breathe and words that burn." And inspired and upheld by his own consummate genius, he sees the little band of America's truly eloquent sons, which, though some of its disciples are now numbered among the dead, yet lives, and ever shall live, still protecting the Constitution of our Union with the invincible, the untarnished shield of oratory.

Many of us will never behold the priceless art treasures of the Louvre, nor those of the Vatican; the musician's skill and the Heaven-sent gift of song die away into faint echoes, lingering only in the hearts and lives of the comparatively few once privileged to hear them. But the words of the Orator, though lacking, of course, the glow and fire of his magnetic personality, are the matchless possessions alike of the richest and the poorest among us. Time is but a small obstacle, distance but a light barrier. We should have indeed fallen on evil days had we no heritage of oratory, the hand-maid of liberty.

The mission of eloquence is not yet completed. The orator is still in demand, and ever will be, while the tremendous conflict for truth, law and liberty continues.

Where is a Peter to turn back the flood of despotism and ungodliness from Armenia? Where the O'Connell to fire the shot and shell of eloquence upon the merciless oppressors and the irresponsible insurgents of Cuba? Where the Webster to uplift the banner of our Republic—the last and best hope of all lovers of freedom—and to hold in defiance the corruption and the feudalistic tendencies of our self-styled statesmen? He may be somewhere among us, armed with robust manhood, with fervor of soul and mind, with emotions noble and sublime; and some day, kindled by your sympathy and mine, uplifted to the occasion and overcome by the nobility and justice of his cause, he may speak. And then shall we

"Hearken to that shrill, sudden shout, the cry of an applauding multitude,
Swayed by the heroic orator, who wields the living mass as if he were its soul."

NOTRE DAME SCHOLASTIC.

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THE news of the terrible disaster which overtook the U. S. S. *Maine* on the night of February 15, brought a double shock to the professors and students of our University, for among the brave young mariners who perished at the post of duty was a former student of Notre Dame. The information at first was meagre and impersonal, and the question that trembled on every lip was this: "Is there any news of Shillington?" At last the news came; and in the hearts of all was sorrow, and sympathy with his mourning family.

John H. Shillington was of a nature which won him many friends, and when, last year, it was deemed necessary for him to sever his connection with the University he went away with the best wishes of all his friends and of all his professors. He was a manly boy, and he did not complain. "I often think of Notre Dame," he wrote to a friend from the ill-fated *Maine*. "I can picture her daily, and in my reminiscences of her a tear is often brushed away. . . . I suppose 'Shilly' is forgotten by people at the old college, and I don't blame them. Though forgotten, I shall always hold Notre Dame near and dear to me."

No; "Shilly" is not forgotten at Notre Dame; but remembered with affection and mourned with sincere grief. He shall have a share in the prayers of students and professors who will not fail in the only service which friendship can now render him. God rest his soul!

Our Moot-Court Work.

THE Moot-Court work in the law school is considered a highly important part of the course. It is practical work, and in close conformity with the proceedings in the regular courts, covering every phase of litigation. It is here that we apply the principles of law taught us in the lectures, text-books and case readings. Besides, it gives the student a taste of what his work will be after he has been admitted to the bar. Too much attention can not be given to this work, and everything is done by our Dean to make it interesting. The students, realizing this fact, enter into it in the right spirit, and are as earnest about it as they would be in the actual trial of cases.

In addition to the Moot-Court work we have what is known as office work, including the drawing of pleadings and other legal documents, the preparation of deeds, leases, mortgages, and the like. Thus the student is made familiar with the work of the office as well as that of the court-room.

Special attention is given to pleadings, which cover the entire range of practice, from summons and declaration to plea and demurrer, and also to the rules of evidence applicable to the testimony of witnesses and the introduction of written instruments.

The different courts are organized as soon as possible after the term begins. Cases are given to the clerks who distribute them among the students. These cases are listed on the court calendar, a preliminary call follows, and they are set for trial. The cases are then taken up in their order and tried. Wednesday afternoon of each week is set aside for Moot-Court.

The different courts are, the University Moot-Court, which is equivalent to the criminal and circuit courts of a county; the court of chancery, the justice's court, the United States commissioner's court, and the United States district court.

The University Moot-Court is the most important, and it is here that the great majority of cases are tried. Our Dean is judge, and we have a full staff of officers consisting of a clerk and deputy clerk, a prosecuting attorney and an assistant, a sheriff and deputy sheriff, jury commissioners and reporters. The jury is composed exclusively of students who take their turn in serving as jurymen. The witnesses are always students.

JOSEPH EDGAR CORBY (Law '98).

Old Students in New Times.

Two old Notre Dame men, Mr. Robert A. and Mr. Wm. A. Pinkerton, students '60 to '61, of the famous Pinkerton Detective Agency, showed their thoughtfulness lately by presenting to Notre Dame Post, No. 569, G. A. R., a copy of the "Memorial War Book." The book is a well-written history of the war and it contains about two thousand interesting illustrations. Among these are a group in which three Notre Dame priests, Fathers Corby, James Dillon and Patrick Dillon, are prominent, and another showing President Lincoln, Major Allan Pinkerton—father of Mr. Robert and Mr. William Pinkerton,—and General McClernard. The text and illustrations are very interesting to all, but especially so to the veterans of the Notre Dame Post, who are very grateful to the Messrs. Pinkerton for their kind remembrance.

***

Mr. Harry Jewett, known here as "Our Hal," is expected soon to assist in coaching the track men. Hal was graduated, first in his class, from the School of Engineering in '90. He is known as the best all-round athlete we ever had; perhaps the best of all college athletes. In the trophy room his picture is prominent among the baseball and football men; first among the track men. He is the first of our alumni to assist in coaching any athletic team; in this he shows the spirit that made him, while here, the popular student and athlete he was.

Manager Niezer has arranged a dual meet with the University of Illinois to be held here May 15. He gained admission for Notre Dame to the Indiana Athletic Association, and expects that we will soon become a member of the Western Intercollegiate Athletic Association. We have also been invited by Professor Stagg to enter the "meet" to be held at Chicago, March 5.

When Hal was with us our name in track athletics was on the lips of every collegian; now it is unspoken. We are setting out to regain our lost title.

To make a track team in a year is not an easy task; but to develop one fit to compete with the best in the West is almost impossible. This is the task we have set ourselves. We shall meet all the best men in the West on two occasions. We must send out a representative team. To accomplish what we intend requires our best efforts.

There are a number of men in training that promise good work. With the assistance of the old champion we should develop some good track men. If the men but get the determination, pluck and love of the work that made Jewett we need have no fear.

Though unacquainted personally with most of us, Mr. Jewett is one of us; for he is as loyal a Notre Dame man as ever wore the Gold and Blue. His example may well be followed by others of our alumni.

In having Hal Jewett with us we feel we are permitted to hope for great things in track athletics. Almost alone he carried our honor to the front rank. He certainly shall train our hands to carry it well and bravely. Though we fail to reach the front let us not be far behind.

Our Friends.

—We were glad to welcome among us on Monday last the Reverend Father Thomas Hays, of Bowling Green, Ky.

—Reverend James F. Clancy, Woodstock, Ill., was a guest of the Professor of Philosophy and other friends last week.

—The Reverend Father O'Connell, chaplain to the Sisters of Providence, of St. Mary's of the Woods, Vigo Co., Ind., made a pleasant visit to Notre Dame during the past week.

—The Reverend Father Raffo, pastor of St. Charles' Church, Louisville, Ky, visited our Reverend President during the early part of the week.

—The Reverend Father Cleary, who lectured so ably on Total Abstinence last Thursday, enjoyed his visit to Notre Dame very much. We hope to see Father Cleary make a longer visit later on.

—Rev. Michael A. Quirk, Ottawa, Ill., and Rev. F. H. Malone, lecturer and editor of *The* (Denver) *Colorado Catholic*, made a short visit to their friends at the University on Monday last. Come again, gentlemen, and make a longer stay.

—Professor Ewing lectured to the Progress Club of South Bend on the afternoon of Feb. 5. He considered his subject, "The Welsh, English and Scotch," in an able manner. The lecture was thoroughly enjoyed by the members of the club and their friends.

—It is our sad duty to mention in these columns the demise of a former student of much promise, James E. Hagerty, '77. Mr. Hagerty was quite a favorite with the boys of his days, and we feel confident that the above announcement will elict from his surviving friends prayers for his soul.

—Mr. Francis P McManus, '96, is engaged in the practice of law in Boston, where he is very popular, both as a rising young lawyer and as a political speaker. During the last municipal election in New York City, Mr. McManus added another laurel to his crown by delivering several masterly orations in Tammany Hall. There is nothing strange in this, however, when we consider his unique record at Notre Dame. He never lost a case in Moot-Court, and as a college orator, they couldn't "touch" him.

—To the many friends of Notre Dame during the seventies the news of Mrs. James Fenlon's death, which occurred February 7, will recall the pious soul they knew so well here. She and her husband, who dwelt for a time in the vicinity of the University, were model Christian people, such as the world seldom sees in these days. To the only surviving child of the family, Mr. Thomas P. Fenlon, '80–'84, the friends of his college home extend heartfelt sympathy, and breathe a *requiescat* for the departed.

Resolutions.

WHEREAS, God Almighty has summoned the father of our beloved fellow student, Henry Rahe, to depart from this life to an eternal reward, therefore be it

RESOLVED, That we, the undersigned, in the name of the students of Sorin Hall do tender to our friend and classmate our heartfelt sympathy in this his hour of grave affliction, and be it further

RESOLVED, That these our words of condolence be published in the NOTRE DAME SCHOLASTIC, and a copy of said paper be sent to the bereaved family.

JACOB J. KRAUS,
EUGENE DELANEY,
ALEX. B. CARNEY,
F. HENRY WURZER.—*Committee.*

Local Items.

—LOST—A ring-setting, letter "R." Finder, please return to Louis Reed, Sorin Hall.

—Manager Niezer is arranging for a dual meet in track athletics with Illinois for the first week in May.

—The first examinations of the new term will be held on Friday and Saturday, the 25th and 26th of February.

—Judge Hubbard's recent course of lectures on Code Pleading will shortly be supplemented by a series of talks on the subject of Appeals.

—Glynn and Lins are bringing on an epidemic of dyspepsia by their earnest discussions of the silver question at the dinner table.

—Professor: Van Hee, recite the rule in today's lesson.—Van Hee: I can't do it, Professor; but here it is written out twenty-five times.

—George Wilson is becoming more to resemble Mike Powers every day. It isn't altogether because he is training to become his understudy for catcher. His beard has something to do with it.

—The course in Medical Jurisprudence will be finished in a few days. Father Kirsch makes the subject doubly interesting by presenting numerous illustrative cases in support of his theories.

—Harry Crumley shows unmistakable signs of genius with the brush. He decorated a photograph with water-colors. And it would be almost impossible to tell what it was. Some of the fellows mistook it for a piece of figured calico.

—The flag was hung half mast Thursday for the dead sailors of the battle ship *Maine*. The college pennant was draped for Harry Shillington, a student of last year, who was a clerk on board the vessel, and who is among the missing.

—When Enrique Guerra finds the time hanging heavy on him, he takes his watch apart and gives it an airing. He uses no tools but his jack-knife in resetting the wheels. The watch

keeps perfect time after going through the trying ordeal.

—Plans for the new gymnasium have been under consideration for some time by a board of counsellors. Building will be commenced in a very short time; and the Athletic Association of Notre Dame may expect to have most excellent and comfortable training quarters.

—The members of the collegiate faculty have been engaged for some months on the revision of the University catalogue. When the work is finished, the classes and their subjects of the collegiate courses will be concisely stated, so that no confusion will be possible.

—In Moot-Court Wednesday, the trial of Benjamin Black for murder continued. Much expert evidence on insanity and kindred topics was introduced. The case is of much interest and the court-room was crowded. Among the witnesses examined for the State were Dreher and Walsh; for the defence, Ney and Barry.

—Fleming and Donovan defeated Andrews and Smith of Chicago in three well-played games of handball. The visitors worked hard to pull out a victory, but our boys were equally vigilant, and at no time were they in danger of losing. The scores of the games were:—Fleming and Donovan, 21—21—21. Andrews and Smith, 13—18—20.

—The track men met last Thursday and chose Fred Powers captain of the team. The selection was a good one, and Fred will gather around him men who will bring many trophies home. A meeting was held in the reading-room after the election. Manager Niezer and Coach Hering spoke. It was announced that a team will be sent to Chicago to compete in the big meet in March.

—In the Law Debating Society last Saturday night the money question was discussed. Paul J. Ragan argued for the adoption of a single gold standard, while Louis T. Weadock gave the bi-metallist view. E. J. Walsh and Frank O'Shaughnessy will finish the debate tonight. In the election of Corresponding Secretary, Mr. Weadock defeated Mr. Brucker by close vote. Tonight the question is, "Resolved, That the civil service law is inconsistent with the genius of the institutions and should be repealed."

—The Dean of the Law school has decided upon a new list of legal subjects to be treated between now and next Commencement. These subjects are Persons and Domestic Relations; Bills and Notes; Torts; Evidence and Chancery Pleadings—all of which are to be treated with the aid of text-books. Mr. S. J. Brucker has obtained the subscriptions of the students and made out a list of the number of books required.

—In some mysterious manner a crow got into Mott's room the other day and a lively time ensued. Mott explained to his peculiar visitor that he had purposely moved down on the first flat to have peace! and peace he would have, or he'd be good-gol-darned. Whereupon the crow reached out his wing and tapped Mott gently on the nasal appendage. These gentle tappings on the nasal appendage followed in rapid succession until Mott's nose looked like a California plum. Then he mercilessly fell on the crow, and they rolled over and over together. Sometimes Mott was on top and sometimes the crow was on top. Cuss-words and feathers filled the air, until at last Mott grabbed the crow by the ear, flapped him down hard on the floor, and then sat upon him until life was extinct. A policeman then cleared the way, and Mott hurried so that he would not miss class.

—Mr. Ather B. Chesterton, one of Sorin Hall's famous philosophers, evidently misinterpreted the following question which was submitted to him recently. The question was: "Do you believe that all men that sow wild oats reap their own harvests?" and Mr. Chesterton's answer is as follows:

"I do not know whether or not you look upon me as one, who, through experience, will be able to talk intelligently on this subject, but if you mean what I think you mean, I respectfully invite you to come around back of Sorin Hall where I will be pleased to demonstrate to you a point or two upon which you are evidently unenlightened.

Mr. Editor, the more I think of it, the more I am convinced that you ought to come around back of Sorin Hall, and now since you have got me good and riled up, I will withhold my views on this question until you explain yourself more fully. I am a good, law-abiding Sorin-Haller, and it takes a good deal to arouse me. Even the big bell in the morning can't do it. Ask Delaney. He knows, sir; he knows. I trust you will see it to your interest therefore to make a full explanation of this matter, or by the great Hunky-Dunk, I'll make you wish you'd never learned to write."

—The sporting editor was taking a quiet stroll the other evening around the campus, when he came upon a little group. He overheard their conversation, and scenting an item of news for his sporting page, he introduced himself to the party. He recognized Mr. Crumley and Mr. Reilly, two eminent athletic trainers. They had in charge a young man of little athletic build; "a discovery," as Crumley whispered into the reporter's ear. "But I want you to keep it quiet just now, and I'll let you in on a deal later on." To prove his assertion, he tapped the athlete on the shoulder, and gave the word "ready." The athlete crouched to the ground, and at the word "go" he projected himself forward about fifteen feet. His strides were marvellous; he made the 100 yards in 18¾ seconds and the return in 19; the turn consumed the extra ¼ in the time. The reporter questioned the athlete, but found him non-committal. He would not talk for publica-

tion. In response to a question of his name, he became embarrassed, but replied "Call me Jim." Crumley expects by careful training to make a 16 man.

—New copies of the following works have been secured for the Lemonnier Library: Works of Archimedes, by T. L. Heath, 2 volumes; Theory of Groups of Finite Order, by W. Burnside; Elements of Plane and Spherical Trigonometry, by C. W. Crockett; Elements of Plane Geometry, by Chas. A. Hobbs; Modern Geometry of the Point, Line and Circle, Vols. I. and II., by Rev. Richard Townsend; Geometrical Conics, by Charles Smith; Elements of Projective Geometry, by Luigi Cremond; Elliptic Functions, by Alfred Cardew Dixon; Plane Trigonometry, by E. W. Hobson; Algebra of Quantics, by Edwin Bailey Elliott; Machine Construction for Engineers, by John Richards; Curve Tracing, by Percival Frost; Separate System of Sewerage, by Cady Staley and Geo. S. Pierson; Surveying and Surveying Instruments, by G. A. T. Middleton; Engineer's Surveying Instruments, by Ira O. Baker; Directional Calculus, by E. W. Hyde; Conic Sections, by Charles Smith; Masonry Construction, by Ira O. Baker; Steam Engine Design, by Jay M. Whithan; Modern Framed Structures, by J. B. Johnson; Conic Sections and Treaties on Analytical Geometry of Three Dimensions, by George Salmon; Method of Least Squares, by Mansfield Merriman; Treatise on Hydraulic and Water Supply Engineering, by J. F. Flanning; Salmon's Geometry.

KLONDIKE, JAN. 1, '98.

MR. EDITOR:

I have just rung for a messenger boy to take this letter to the post office, but he's infernally slow. Guess he's punctured his air-ship, or is afraid of getting overheated.

By the way, the stove threw out some heat yesterday, but some son-of-a-gun left the door open.

I had a lovely dish of strawberries for breakfast this morning; picked them in the garden—somebody else's garden. The owner of the garden picked a fight with me, and then my friends had to come and pick me up.

I note and will obey your request to send matter of more general interest. I also promise to say no more about the serge coat.

We elected a mayor here last night; he is hanging to a tree this morning; threatened a reform. How are all the boys? Tell Falvey to express me his good old red sweater. You must know a fellow up here wants to dress up once in awhile.

The other night I dreamed I was at Notre Dame, and saw the Law class electing another president. The members were all making faces at each other and calling awful names. I woke up just as Brucker began one of his famous speeches. (Bad time to wake up.)

I called for a plug of Battle-ax at the store the other day, and some big, burly miner remarked, in true Shammy style: "Get onto de dude." I smartly retorted: "What do you mean, sir?" That is the last time I will ever smartly retort to a big, burly miner.

Everybody up here is getting rich and independent. Our servant girl quit last week because she was only getting $48 a week, and no policeman on the beat. By the way, there is a vacancy on the police force caused by the removal of an officer for getting to the scene of a fight in time. He came from Chicago. Tell Dooley to come up and get on the force; arrests are frequent.

The other day a poor fellow was caught drinking a glass of water and another was pinched for owing the ice-man. I will stop writing now as my last candle has gone out. I loaned it to a neighboring miner who is giving a swell "crush" tonight in honor of a party of runaway husbands who have just landed. Please spell my name correctly this time, and let me know if the same old gang is on the billiard table.

PROF. BLAHAH.

—The Rush Medical Basket-ball team met defeat at the hands of the Varsity last Wednesday evening. The game was quick and exciting. The Doctors played a good steady game, and at the end of the first half the score was even. In the second half our men began to brighten up, and soon were leading by a safe score. Powers played a good game at centre and scored most of the baskets, though the play was equally strong by all members of the team. Grasse, of the Rush Medics, scored all the points for the visitors. He was an accurate goal-tosser, and showed himself to be equally good at basket-ball as he was at football. The Rush men were quick, but their team work was inferior to the Varsity. The score of the game is as follows:

FIRST HALF.

RUSH	Goals	Fouls
Grasse, r. f.	3	0
Stevenson, l. f.	0	0
Hoegler, c.	0	0
Stewart, r. g.	0	0
Farr, l. g.	0	0
NOTRE DAME	Goals	Fouls
Naughton, r. f.	1	0
O'Shaughnessy, l. f.	1	0
Powers, c.	0	0
Burns, r. g.	1	0
Fennessey, l. g.	0	0

SECOND HALF.

RUSH.	Goals	Fouls
Grasse, r. f.	2	3
Stevenson, l. f.	0	0
Hoegler, c.	0	0
Stewart, r. g.	0	0
Farr, l. g.	0	0
NOTRE DAME.	Goals	Fouls
McNichols, r. f.	0	0
O'Shaughnessy, l. f.	0	2
Powers, c,	4	0
Donahoe, r. g.	0	0
Steiner,	0	0